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SIPDIS

SENSITIVE

FOR DRL, EUR, AND PA

E.O. 12958: N/A

TAGS: PHUM PREL ELAB KSPR IT HUMAN RIGHTS

SUBJECT: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2001
- REQUEST FOR GUIDANCE

REF: A. STATE 28413

1B. 01 STATE 185194

SUMMARY

1. (SBU) SEVERAL POINTS IN THE ITALY CHAPTER OF THE 2001 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (HRR) REPRESENT DEPARTURES FROM PREVIOUS PRACTICE. ESPECIALLY GIVEN THE NATURE OF SOME OF THE CHANGES, WHICH MAY BE PERCEIVED AS SIGNIFICANT IN THE CONTEXT OF DOMESTIC ITALIAN POLITICS, WE EXPECT TO RECEIVE INQUIRIES FROM EITHER GOI INTERLOCUTORS OR THE PRESS. THIS MESSAGE REQUESTS DEPT GUIDANCE WE CAN USE IN RESPONDING TO SOME OF THE INQUIRIES THESE CHANGES MAY PROMPT. WE WOULD ENCOURAGE YOUR CONSIDERATION OF WAYS WE CAN MAKE CLEAR THAT, DESPITE THE CHANGES INSERTED INTO THIS YEAR'S REPORT, WE ARE NOT TAKING SIDES IN ITALY'S LOUD AND ACRIMONIOUS POLITICAL DEBATE BETWEEN THE CENTER-LEFT AND CENTER-RIGHT PARTIES.

THE GOI "GENERALLY" RESPECTS CERTAIN HUMAN RIGHTS

2. (SBU) Q: WE NOTE THAT THE BERLUSCONI GOVERNMENT'S HUMAN RIGHTS PERFORMANCE SCORES LOWER (IN THE 2001 HRR) THAN DID PREDECESSOR CENTER-LEFT GOVERNMENTS. FOR EXAMPLE, YOU SAY THE BERLUSCONI GOVERNMENT ONLY "GENERALLY" RESPECTED THE JUDICIARY'S INDEPENDENCE (SECTION 1.E), FREEDOM OF SPEECH AND THE PRESS (SECTION 2.A), AND RELIGIOUS FREEDOM (SECTION 2.C). YOU ALSO NOTE THAT HUMAN RIGHTS GROUPS, UNDER BERLUSCONI, "IN GENERAL" OPERATE WITHOUT GOVERNMENT RESTRICTION (SECTION 4). PREVIOUS HRRS SAID THE ITALIAN GOVERNMENT "RESPECTS (THESE RIGHTS) IN PRACTICE." DOES THIS MEAN THE USG PERCEIVES DETERIORATING RESPECT FOR HUMAN RIGHTS BY ITALY'S CENTER-RIGHT GOVERNMENT?

3. (SBU) POST COMMENT: IN YOUR RESPONSE, PLEASE ACCOUNT FOR ANOMALOUS EVALUATIONS IN THE 2001 HRR THAT GIVE THE GOI A CLEAN BILL OF HEALTH (E.G., SECTION 2.A ON ACADEMIC FREEDOM, SECTION 6.A ON THE RIGHT OF ASSOCIATION, SECTION 6.B ON THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY).

WHAT DOES "GENERALLY RESPECTS" MEAN?

4. (SBU) POST BACKGROUND COMMENT: PER REF B, DEPT ADVISED THAT "THE PHRASE 'GENERALLY RESPECTS' IS USED...BECAUSE THE PROTECTION AND PROMOTION OF HUMAN RIGHTS IS A SITUATION THAT IS CONSTANTLY CHANGING AND EVOLVING, AND IT CANNOT ACCURATELY BE STATED THAT ANY GOVERNMENT, INCLUDING THE UNITED STATES, FULLY PROTECTS THESE RIGHTS WITHOUT QUALIFICATION IN EVEN THE BEST OF CIRCUMSTANCES." IN USING THIS LANGUAGE TO EXPLAIN THE MEANING OF "GENERALLY RESPECTS," IT WOULD BE HELPFUL TO HAVE RESPONSES TO FOLLOW-UP QUESTIONS SUCH AS:

-- Q: THE DICTIONARY DEFINITION OF "GENERALLY" IS "ON THE WHOLE," "AS A RULE," "IN MOST (BUT NOT ALL) INSTANCES." SO, WHAT ARE THE INSTANCES IN 2001 ON WHICH THE BERLUSCONI GOVERNMENT DIDN'T RESPECT THE JUDICIARY'S INDEPENDENCE (OR "FREEDOM OF SPEECH AND THE PRESS" OR "RELIGIOUS FREEDOM")?

-- Q: THE HRR HAS MULTIPLE EXAMPLES OF RIGHTS VIOLATIONS IN SOME AREAS (E.G., SECTION 1.C ON SECURITY FORCE MISTREATMENT OF ANTI-GLOBALIZATION DEMONSTRATORS IN NAPLES AND GENOA) BUT NONE IN THESE (I.E., PARA 2 ABOVE). COULD YOU PLEASE GIVE US SOME SPECIFIC INSTANCES IN 2001 WHEN FREEDOM OF SPEECH (PRESS/RELIGION/ETC.) WAS VIOLATED?

-- Q: THE 2000 HRR REPORTS ON FRANCE AND GERMANY SAY THEY "GENERALLY" RESPECT FREEDOM OF RELIGION. BUT THESE REPORTS REFER TO PROBLEMS SUCH AS CLOTHING BANS IN SCHOOLS (THAT AFFECT MUSLIMS), LIMITATIONS ON RELIGIOUS SLAUGHTER, AND MEASURES DIRECTED AGAINST "SECTS," ESPECIALLY SCIENTOLOGY AND JEHOVAH'S WITNESSES. AS THE REPORT ON ITALY DOESN'T MENTION SIMILAR LIMITATIONS, WHY IS THE SAME LANGUAGE USED TO DESCRIBE APPARENTLY DIFFERENT RELIGIOUS FREEDOM CONDITIONS?

INTERNAL INCONSISTENCY?

5. (SBU) Q: WE NOTE THAT IN ONE PLACE (SECTION 1.E) THE REPORT SAYS THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY AND THE GOVERNMENT "GENERALLY RESPECTS" THIS PROVISION. IN ANOTHER PLACE (INTRODUCTION) THE REPORT SAYS THE GOVERNMENT "RESPECTS" THE CONSTITUTIONAL PROVISION FOR AN

INDEPENDENT JUDICIARY. THESE SENTENCES APPEAR TO SAY TWO DIFFERENT THINGS. IN THE U.S. GOVERNMENT'S VIEW, DOES THE BERLUSCONI GOVERNMENT "RESPECT" AN INDEPENDENT JUDICIARY OR NOT?

ARBITRARY OR UNLAWFUL DEPRIVATION OF LIFE

16. (SBU) Q: SECTION 1.A IS HEADED, "ARBITRARY OR UNLAWFUL DEPRIVATION OF LIFE." ONE PARAGRAPH IN THIS SECTION REFERS TO THE RED BRIGADES' COLD-BLOODED ASSASSINATION IN MAY 1999 OF LABOR MINISTRY ADVISER MASSIMO D'ANTONA. ANOTHER PARAGRAPH REFERS TO THE JULY 2001 SHOOTING OF A DEMONSTRATOR WHO WAS PART OF A MOB ATTACKING "AN ISOLATED JEEP WITH THREE POLICE OFFICERS." WHY DOES THE U.S. GOVERNMENT CONSIDER THIS LATTER INCIDENT TO BE ARBITRARY OR UNLAWFUL DEPRIVATION OF LIFE?

17. (SBU) FOLLOW-UP Q: POLICE UNDER ATTACK IN PREVIOUS YEARS HAVE ALSO FIRED ON AND KILLED THEIR ASSAILANTS. BUT SUCH INSTANCES WERE NEVER MENTIONED IN THE HRR SECTION ON "ARBITRARY OR UNLAWFUL DEPRIVATION OF LIFE." WHAT MAKES THIS PARTICULAR CASE ARBITRARY AND UNLAWFUL?

18. (SBU) FOLLOW-UP Q: DOES THE USG CONSIDER EVERY DEATH BY SHOOTING BY AN AMERICAN POLICEMAN TO BE POTENTIALLY UNLAWFUL OR ARBITRARY?

DEADLINE

19. (U) PER REF A, THE HRR WILL BE PUBLICLY RELEASED AT APPROXIMATELY 12:00 NOON TUESDAY, FEBRUARY 26, I.E., 6:00 P.M. ROME TIME. WE WILL NEED RESPONSES TO THESE QUESTIONS NLT WEDNESDAY MORNING (ROME TIME), FEBRUARY 27.

SEMBLER